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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. Eide and Ms. Palley

1992/.. Situation of human rights in Colombia

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the Geneva Conventions of 12 August 1949 and the 1977 Additional Protocols thereto,

Reiterating that the Governments of all member States have an obligation to promote and protect human rights and fundamental freedoms, even under exceptional national circumstances,

Having considered the report presented by the Special Rapporteur on summary or arbitrary executions (E/CN.4/1990/22/Add.1) after his visit to

Colombia and the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1989/18/Add.1), also presented after its visit to Colombia,

Having considered also the report on the independence of the judiciary and the protection of practising lawyers prepared by the expert, Mr. Louis Joinet (E/CN.4/Sub.2/1991/30 and Add.1-4), in particular the sections concerning the attacks on judges and lawyers in Colombia, especially those who try or investigate cases of human rights violations, and concerning the requirements for rendering advisory services in the field of human rights,

Taking into account that the Government and the people of Colombia have made significant efforts to modernize legal institutions and have adopted a new Constitution which includes an ample catalogue of fundamental rights and freedoms and institutes protection and defence mechanisms such as the tutelage action (acción de tutela) and the ombudsman (Defensor del Pueblo),

Deeply concerned at the persistence of serious violations of human rights, as demonstrated by the large number of persons who are murdered for political or ideological reasons, and at the persistence of the practice of enforced disappearances of persons,

Concerned at the information provided by the Special Rapporteur on summary or arbitrary executions and the Working Group on Enforced or Involuntary Disappearances regarding the participation of members of the Colombian armed forces in various acts involving violations of human rights,

Taking note of resolutions 1/92, 31/92, 32/91 and 33/91 of the Inter-American Commission on Human Rights which established the responsibility of the Colombian State in the extrajudicial execution of one person and the enforced disappearance of sixteen persons,

Concerned about the effects on the civilian population of the conflict between the guerrilla movements and the Colombian armed forces, which has produced not only a large number of victims but also an increasing number of families displaced from their homes and lands,

Taking into account the fact that, during 1991, the Government of Colombia and the guerrilla groups initiated a process of negotiation in order to seek a political solution to the internal armed conflict, and recognizing that due respect for human rights and international humanitarian law represent major items on the agenda of the negotiations,

Aware of the weakness of the Colombian judicial system which experiences difficulties in investigating, discovering and punishing those responsible for human rights violations and other serious crimes,

Considering that it is necessary for the Government of Colombia to intensify investigations aimed at identifying and bringing to justice those responsible for violations of human rights, to facilitate the activities of organizations, both official and non-governmental, concerned with the promotion and protection of human rights, and to ensure the effectiveness of the judicial system to overcome the prevailing impunity,

Aware of the need to promote the legislative development of the new Constitution in accordance with international human rights law,

1. Takes note of the promulgation of the new Constitution of Colombia, of the ample catalogue of the rights and freedoms set forth therein and of the establishment of the protection mechanisms for the fundamental rights and freedoms of the tutelage action (acción de tutela) and the ombudsman (Defensor del Pueblo);

2. Invites the Commission on Human Rights to consider, in consultation with the Government of Colombia, appointing an expert who would advise the Government and keep the Commission informed of obstacles encountered and progress made by the Government of Colombia, particularly on the following points:

(a) In the legislative development of the 1991 Constitution, emphasizing the need to ensure compliance with international human rights law;

(b) In the efforts to repress the activities of the paramilitary groups, advising the Government on the treatment to be given to those members of the armed forces associated with these groups and involved in gross human rights violations, and on the steps to take to achieve a democratic reform of the armed forces by civil authorities;

(c) In the peace process, encouraging the parties to reach an agreement to respect human rights and apply international humanitarian law;

(d) In the administration of justice, seeking to form an independent and impartial judiciary which combines efficiency with due respect for the guarantees and rights of persons;

3. Also invites the Commission on Human Rights to consider the question at its forty-ninth session under the agenda item entitled "Advisory services in the field of human rights".